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POLITICAL
OBSERVATIONS
ON THE
TEST ACT.

*See the edition by the
Rev. Mr. Brand in the
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THE purpose of this tract is to show the utility of a Test Act upon political principles; and to examine such arguments which have been brought against it upon these grounds, as seem more particularly to deserve consideration.

Firstly. That the test act is a part of the Constitution, and that in the higher and stricter sense of the term, and consequently, that the Repeal of it will be a material change in the Constitution.

Thirdly. That the repeal of the test act would increase the power of the popular part of the constitution, beside producing some other bad effects; and therefore, that its continuance is necessary to preserve it in its present state.

Fourthly.

Fourthly. What is to be laid down on these heads, will be concluded with some strictures on such political arguments brought in favour of the repeal, as seem to be most intitled to consideration.

I. THE test act is first to be shown to be a part of the Constitution in the higher and stricter sense of the term, from the nature of a Constitution considered in the abstract; and in addition to this, the consequences of its original institution, and the benefits attending its subsequent extension, will be pointed out.

Every Nation, not under a despotic Sovereign, is governed by written or by traditional laws called customs. The laws are divisible into two classes: the first of which relates to the governors, and the second to the subject: those relating to subjects are moral and positive, those relating to the governors are called Constitutional. The laws therefore which prescribe first who shall govern, and secondly in what mode, are constitutional in the highest sense of the term; or fundamental laws of the constitution.

The functions of every government not despotic, are divided into two great branches, the legislative and the executive: and it is determined by the fundamental principles of the constitution, to whom the exercise of both or either, shall be intrusted. And a change of these laws is a change of the fundamentals of its constitution. As for example, those which determine how the executive power shall be formed; which laws by their nature, must direct the mode of investing particular persons with that power; and define the qualifications of the persons, capable of being so invested. And to contract or extend this description, is to make a change in the fundamental parts of the constitution. These laws, in England, confide the whole of the executive powers of the state to the Members of the established Church: and the admission of
protestant

protestant dissenters to a share in this power, is a change of the description given above, and an alteration of one of the fundamental parts of the constitution. Therefore the Repeal of the test act would be a fundamental Change in the Constitution.

The benefits of the initial operation of this act, and those accompanying its successive extensions, intitle it likewise to be considered as constitutional ; or as an essential part of the constitution.

At its first institution, it gave protection to the liberties and religion of the kingdom, against the violent measures of James the II. but it seems at first not to have gone far enough ; it was therefore extended by the parliamentary Convention at the Revolution ; who ' in the settlement of the ' crown, included all the *protestant* posterity of Charles I. ' except such other issue as King James might at any time ' have,' (Blackstone, b. 1, c. 3,) beside the princesses of Orange and Denmark. This limitation of the descent of the Crown to the protestant posterity of Charles I. was an extension of the principle of the test act, prescribing the Religion of the chief magistrate : and the declaration in which it was contained, by placing William upon the throne, gave stability to those rights and liberties of the people, then, perhaps for the first time, clearly defined by laws.

Upon the prospect of the failure of the protestant descendants of Charles I. those of James I. were called to the succession, and it was enacted, that upon the death of William and Anne without issue, the princess Sophia, or the heirs of her body, (being protestants) should succeed to the throne : (Blackstone, b. 1, c. 3.) At the same time, the principle of the test act was carried to its utmost extent ; it being enacted, that whoever afterward should come to the possession of the crown, should join in the communion of the Church of England as by law established. By this law, the happy consequences of the Revolution were perpetuated. But

But I shall add a further observation, on the nature and consequences of test acts in general. Much more of the animosity and severity of religious parties against each other, proceeds from mutual fear, than the desire of mutual opposition: hence the most numerous religious party, with the whole executive power in its possession, has little to fear, and becomes tolerating. But if it only shares that power with its opponents, its anxiety for its own safety and dread of their enterprises, embitters its spirit against them; and the idea of self-preservation, makes it wish to reduce or to annihilate this opposition. A great established church, fortified by a test act,* as a legal barrier, confident of its own strength and safety, can extend a legal toleration to all sectaries: and it is highly probable, if the test and corporation acts had not existed; that the toleration act and its subsequent improvements, would not now have occupied a page in our statute books; nor the successful example of this kingdom, taught Europe in general, that the rigour of religious persecution might be with safety remitted. Such appear to have been the ultimate consequences of these laws, whose first effects clapped manacles upon the hand of a tyrant, raised to subvert the civil and religious liberties of his country: whose first extension delivered the

* Since the restoration there have been passed four Acts, either in the whole or in part test Acts.

1. The Corporation act.
2. The Test act properly so called.
3. The Conventional act, or declaration of the Lords and Commons at the revolution, excluding Catholics from the throne.
4. The Act of Settlement, limiting the crown to members of the established church.

All but the third continue in force, and the principle of the first and fourth is the same as that of the third, or test act properly so called. Therefore, as what is said of that act applies to them all, and as it avoids circumlocutions and unusual expressions, the term Test Act is generally used alone.

the state from anarchy ; and removed to a distance the return of the evils we had just escaped : and whose principles, when carried to their ultimate perfection, perpetuated those liberties and that excellent system of government, which cost our ancestors nearly a century of discord, civil wars, and revolutions to acquire. From its effects therefore, it appears that the principle of a test act is constitutional.

Part 2. Although it be admitted that the constitution of this kingdom has been varied at different times ; many of which variations have been improvements ; yet the experiment of one hundred years, of freedom, prosperity, and comparative domestic quiet, renders it absolutely incumbent upon the advocates for the repeal of the test act, to give the clearest evidence of the advantages to the state which would follow it.

In matters of such general interest, the arguments drawn from experience, are justly to be esteemed as the most decisive ; and the histories of different nations are to be regarded as registers of experiments ; from which the great maxims of policy, on such occasions, are best deduced. This mode of reasoning in political inquiries, possesses the same advantages over all others, which attends the method of experiment and induction in philosophy : which has enabled it, in little more than a century, to make a much greater progress than in all the ages antecedently elapsed. And it is from its constant application alone, that the science of legislation and government, can receive that ultimate perfection of which it is capable. Accordingly, the examples of many modern states have been alledged to show, that no ill consequence in fact results to society, from intrusting the executive powers of government, indiscriminately, to the different religious sects it may at any one time contain.

Of these examples, such as are applicable, clearly point out a necessity that the state should establish the religion of the majority,

majority, as a national Church, and confide the executive power exclusively to its members: which is the second point proposed to be shown.

Here it will be of use to lay down some marks, to discriminate those historical examples which are applicable to the subject, from those of the opposite description.

No conclusions can be drawn against the expediency of a test act, from the history of a nation divided into two religious parties, in which the government is arbitrary. Despotic power is always at hand to repress the turbulence of either; and the efforts of each sect to disturb the tranquillity of the state, are debilitated by the external force which depresses both. Nor do the transactions of those countries, which are much below the rest of Europe in civilization and improvement of every kind, furnish instances which can be properly made use of, on either side of the question. Those nations are likewise to be excluded, which do not possess both the executive and legislative power within their own limits: for such a nation differs very much in its political situation from a Sovereign state; and a test act may operate very differently therein. Those states therefore whose histories are applicable to the subject must be free, sovereign, and enlightened. I shall therefore begin with the examination of the history of those independent Nations which derive their origin from this Island.

It is asserted by the advocates of the repeal of the test act, that the states where no such law takes place, are not exposed to frequent revolutions of government by the contests of religious parties: and the united States of America, who have not adopted a test law, are alleged by them as an example, that there is no necessity for the imposition of religious tests.

To this it may be answered, that the instance is inapplicable, though not coming under the general descriptions given above, because no reason for or against such a law, can be brought

brought from the history of a state, during any period in which it has been subject to revolutions, the causes of which were not religious disputes. For the advocates for the repeal cannot say that the constitution of such a state remained unchanged, although the religion of the majority was not established and guarded by a test: nor can it be said in favour of such a law, that these revolutions were occasioned by the want of it. It can only be said, that religious disputes may sleep, during the time that other great objects take possession of the attention of every sect. That the American States have neither an established church nor a test act, is a circumstance which seems therefore to give little support to the arguments on either side: when they emancipated themselves from this country, they erected a new constitution: upon a short experience it was found not to be a good one; and they set about forming a second, very soon after the conclusion of the peace; which is not yet perfectly settled. The period of their history, which has been supposed to be applicable to the subject, must certainly commence at the period when they became effectively an independent nation; and a great part of it has been taken up by the changes in their constitution. And if it had been otherwise, it has not extended to a length, in which it might be expected that the spirit of religious dissention would have arisen to that height, which produces great effects.

In the earlier periods of their subordination to Great Britain, her power was requisite to keep the different sects from persecuting each other; and as different religious opinions were embraced by different colonies, the bitterest animosities subsisted between them: which were kept from breaking out into action, by the same power. This spirit, though thus restrained, was not annihilated during that whole period; and it was not the least singular event of the beginning of the last war, that the terror of foreign arms. and a foreign enemy in possession

possession of the most important post of their country, was able to induce them to a peace.

The case of Ireland is brought forward by the most eloquent of the parliamentary advocates of the repeal; whose arguments hold forth professions of the strongest attachment to our civil and ecclesiastical constitution, as a conclusive argument in its favour. It is therefore necessary to take an historical review of the transactions of that kingdom in regard to the test act, its church establishment, and civil constitution, from the last rebellion in Scotland to the present time.

With the penalties of the test act hanging over their heads, the dissenters in Ireland at that time took up arms, to be in readiness to assist in repressing any insurrection which might be attempted there. This measure the superiority of strength of the Catholic party in that kingdom rendered as necessary as patriotic; for a great part of their estates consisted of lands which had been forfeited by the ancestors of those Catholics,† for their repeated rebellions: and it might be very well expected that they would embrace the favourable opportunity of a formidable rebellion existing in Great Britain, then engaged in an unsuccessful foreign war, to take arms to regain the free exercise of their religion, and the possession of the lands of their ancestors.

When this danger was happily overcome, it was voted,
 “ that any person whatever, who should bring an action
 “ against a dissenter under the test act, should be deemed an
 “ enemy to this country and a Jacobite.” As this does not
 run in the technical language of legislation, it is most probable
 that

† Four-fifths of the inhabitants of Ireland are Catholic. *Young's Irish tour*, v. 2, p. 140. Nineteen twentieths of the kingdom have changed hands from Catholic to Protestant. *Ib.* p. 133. The ejected Catholics continue to transmit the memorials of their former rights by testamentary deeds to this day. *Ib.* p. 133.

that it was what it is called above, a vote of one or both houses: it is said however, in the public paper from which it is copied, to have been so “enacted,” or passed into a law: but this, the bare inspection of the matter it contains, proves to be impossible; it admits the test act still to have legal existence, but fulminates the severest censures against those who should put it in force; generally; that is, at that time, or any future period. It includes therefore a tacit confession, that it is not an act of the whole legislature; whose declarations run, ‘we grant indemnity for the past, and we ‘repeal for the future.’ It therefore was a vote, and not part of a law. And the reason of its appearing in this shape was, that if reduced into a law, the parties thought it must be negatived in England; but that in its present shape, it would be full as effective.

It appears to have been necessary to show, that after this declaration against the principles of the test act, the Irish parliament, in no subsequent point of time, had attacked the establishment of the church of Ireland; of which, the revenues appointed for the support of the clergy form a material part. But the contrary is true.

It is very well known, that a great part of the tithes of that kingdom, arise from Kine, and grazing Beasts; Irish Beef, and Butter, being among its staple commodities. Mr. A. Young’s tour in Ireland was published in 1780; he began it in the year 1776: and he informs us, that the Irish house of Commons, some years previous to his writing, passed a vote, “declaring every lawyer an enemy to his country, who in “any way whatever, was concerned in any case of tithe for “fat bullocks and cows.” ‘And that without this becoming ‘a law, it was so completely obeyed, that it has regulated ‘the business ever since.’ (v. 2, p. 186, 187.) The effect of that regulation appears in the preceding page, where he gives the average value of the tithe, of all the greater arti-

cles produced by the Irish farmer, as paid in that kingdom. It contains no charge of cows, calves, or fatted bullocks. But as it includes the value of the tithe of Sheep, if in his tour he had found instances of such payments, the average of them would have been inserted in his general account: the productions of the pasture lands of Ireland, being so much more considerable, in proportion to the arable, than that of any other nation; the established church was thus deprived of a very considerable part of its revenue. There are some conclusions, which may be drawn from these two measures of the Irish Parliament.

The first is a pointed declaration against the test act in Ireland, though not an actual repeal of it: it was followed at a certain interval of time, by a vote which effectively stripped the clergy of a considerable part of their revenues: and it may be taken as a proof, deduced from experience, that when a party in a public assembly, has influence enough to weaken the support a test act gives to an established church; one constituent part of it, its revenues, are in danger.

It has been remarked above, that the first of these declarations is not in the style of an act of Parliament: and there is so great a similitude in the expression of both, that they are to be taken as acts of the same nature.

Each of these declarations was an attempt of the Commons alone, to assume sovereign legislative power: it was the publication of one of its own ordinances, to controul or supersede the law of the land; the machine employed by the long Parliament to overturn the state; after the concessions of the unfortunate Charles had peaceably established the national liberty, or the little more then wanted to its perfection might have been easily obtained.

Both of them likewise closely follow the spirit and form of those acts of that usurping and tyrannical democracy. For whereas these included several classes of men, under the undefined criminal titles of malignants and delinquents; in the ordinances

ordinances of the Irish house of Commons, they are described in terms rather more severe, as enemies to their country. Thus far the matter and nature of these two declarations, common to both, have been considered: but the comparison of that, against the revenues of the established church and the edicts of the long Parliament, presents us with some further and material points of discussion. This singular difference is to be observed between them, the censures of the English republicans were directed against those who either had, or were supposed to have stretched their delegated powers to a criminal extent; and against their abettors: but the Irish ordinance effectively deprived a class of men of their property, to which, as it appears by the very terms of it, they had not forfeited their right, by any criminality, or suspicion of criminality. As far as the effect of this order extended, and the obedience to it was complete, the clergy of Ireland were outlawed, *ipso facto*, by the house of Commons. This fact fortifies an old observation with one instance more: that there is a great similitude in the conduct of all invaders of the rights and privileges of the subject, whether they be individuals or public bodies. The end of law is to protect rights and punish wrongs. James, in his attempt to degrade himself from a sovereign to a tyrant, began by the suspension of laws; but these were penal laws: the suspension of laws, protecting the property of a class of men, by one branch of the legislature, is a much more grievous exertion of usurped and unconstitutional power; the illegality which rescues individuals or bodies of men from punishment, being generally looked upon in a less atrocious light, than that which divests them of their rights and properties.

It was further stated, in the debate on the test act, that it was formally repealed in Ireland about eleven years ago, which, as may be gathered from the passage quoted from Mr. Young, was some years after this vote of the Irish house of

Commons ; but when it was upon that occasion added, that the Church is in a flourishing state in that kingdom, as the fact given above demonstrates the contrary ; the vote against the test act, at a due interval of time, having been followed by a vote effectively diminishing the revenues of the Church ; third in order came the legal repeal of that act ; since which, as the attention of the nation was for some years directed to the perfecting a great revolution ; during which it was necessary, not to proceed too far against the clergy ; the time elapsed had not been sufficient, much to diminish the apprehensions that church may entertain, of some fourth measure affecting her establishment : and the conclusion of the advocates for the repeal, drawn from its present condition, that it is therefore a measure proper to be copied in England, must be rejected.

Among the Swiss republics, it must be admitted, that there are to be found instances of free states, whose governments are not fluctuating in their principles, or distracted by the contests of religious parties ; and where the established church flourishes, without the support of religious tests. But Dr. Adam Smith, in his inquiry into the cause of the wealth of nations, gives us a fact, from which the solution of this political phænomenon is easily derived. ‘ In the greater part of the protestant cantons, there is not a single person to be found, who does not profess himself to be of the established church : if he professes himself of any other indeed, the law obliges him to leave the canton.’ •

But the rank the United Provinces hold among the States of Europe, render their history the most striking of those, not excluded by the general exceptions at first laid down, and it is in every respect the most perfect example to be found, to decide the question. The opponents of the test act appeal to it in their favour : but, when examined, it will show, as far as the instance can extend, that it is necessary for a state to establish

establish the religion of the most numerous sect it contains ; by giving to it the privileges attending a national church ; and intrusting the executive power exclusively to its members.

In the evidence now to be brought in support of this proposition, I shall follow the account of the transactions of the Dutch Republic, as given in the modern universal history ;* the only authority to which I have access. As the author exhibits in every particular, the most liberal attachment to the principles of civil and ecclesiastical liberty ; the facts he has delivered, will be received by those who concur with him in those principles, with the credit due to such a relator.

The United Provinces obtained external peace, and an acknowledgement of their independence, in the year 1609 : but the causes which were to interrupt their internal tranquillity, from that time to the present period, were already in action ; though the fear of a foreign enemy had prevented their breaking forth in open violence. The division of the national church into two sects was already begun ; the leaders of whom were Gomarus, who was a rigid Calvinist, and Arminius, whose followers derive their name from him : and the latter were stigmatized as deserters from Calvinism.

It is a general observation, that the externals of religion, its rites and ceremonies, afford most frequently the occasion of the breaking out of dissention, render it most acrimonious, and keep it longest alive : but the two contending sects in Holland were not distinguished by any differences of this kind, as the church of England and the dissenters have been. A declaration of the States general sets forth, that “ both
“ parties were of the same religion, had the same form of
“ worship, the same public ceremonies, the same manner of
“ exposing

* Vol. 28.---It is constantly quoted by the number of the page inserted in the text,

“ exposing vice and cherishing virtue ; and differed only in
 “ a few points, of little consequence to salvation, or indeed
 “ to society,” (p. 44.)

It is evident, that one principal cause of the existence, the acrimony, and continuation of religious disputes, the difference of external forms and rites, did not take place in Holland ; and that they fully take place here. If therefore, the State do not solicitously guard itself against the effects of the hostility of religious parties, the calamities they will probably bring upon this country will be proportionally greater, and of longer duration than those which afflicted the republic, upon the survey of which we are now entering.

No religious test excluded the followers of either system from the magistracy. It will be shown, that the violence and dissention which prevailed in every district, repeated revolutions in the form of government, and at certain intervals, the most humiliating degree of national abasement, must be ascribed to this cause. The instances of the first kind, having more resemblance to calamities of a private nature, will be considered by themselves ; and the two last, as affecting the whole state, in conjunction. These articles will be run over, with all the brevity their importance to this argument will permit.

The whole country, soon after the truce with Spain, became a scene of violence and confusion : in towns, where the magistrates were of the Arminian party, the ministers of the Calvinists were suspended, expelled, or imprisoned. And where the party of the Calvinists had the ascendant, the Arminians shared the same fate. (p. 39.) This distraction was increased by the populace assuming the same powers :
 “ Wherever either of the factions happened to be the most
 “ powerful, they seized on the churches, and excluded their
 “ opponents. (p. 45.) And such was the mutual animosity
 “ of the two sects, that the Arminians were obliged to meet
 “ privately

“ privately in some towns, and the Calvinists in others.” (p. 44.) The Arminians of Amsterdam, having procured a minister from Leyden, met in a large warehouse belonging to a merchant, to hold their religious assemblies: the application of the Calvinists to suppress this meeting, being disregarded by the magistrates, the doors of the warehouse were forced, the minister abused, and the lives of the congregation threatened. The Arminians in their turn complained to the magistrates; but were answered, that “ the best method to secure themselves, would be to avoid such meetings as incurred the resentment of their fellow citizens.” (p. 46.) In the magistracy of Amsterdam, the Arminian party formed generally, though not always, the majority: the feeble and irresolute inclination to favour that sect, on the first application, appears from some circumstances, to have given way to a feeble inclination to discountenance them, upon the second: and on both occasions, the executive power betrayed a sense of its own weakness, arising from the division in religious sentiments, of the individuals who composed it.

In such a distracted state of society, it is evident that each of the religious parties would frequently disobey those magistrates, whose tenets opposed their own. Some burghers of Amsterdam, having refused obedience to certain Arminian magistrates of that city, the populace espoused their cause: the riot was suppressed by a detachment of the army: and the States, at their next meeting, passed an ordinance, “ whereby the people were required to obey the magistrates, of whatever sect or religion they happened to profess themselves.” (p. 95) The ordinance itself is very singular; but the disturbance which occasioned it, was suppressed without great difficulty: and the issuing such a general edict, after its suppression, seems to indicate, that disturbances of this kind were very general; and the bonds of government nearly dissolved.

At Leuwarde and Utrecht the populace usurped the right of civil government ; by deposing their legal magistrates, the Burgomasters, and substituting others in their stead by violence. The promise of a speedy redress to their complaints by the old Burgomasters of Utrecht, was not sufficient to appease them. And the excesses of the faction ran to so dangerous a height in that city, that the Stadtholder Prince Maurice, going to repress them, was grossly insulted, and forced to a precipitate retreat. (p. 42.) It appears, in the subsequent part of the history, that the insurgents were of the Arminian party.

The internal commotions in particular districts here mentioned, occurred in the period of the first twenty years after the commencement of the dispute. They exhibit a picture of the mutual violence of the two sects, approaching very nearly to anarchy : and are the consequences of the erroneous systems of their laws relating to religion.

It is a matter not only interesting to the curiosity of political investigation, but intimately connected with the present subject, to inquire, whether, if the English system of religious laws had at that time taken place in Holland, that country would not, in its constitution, have possessed an adequate preventative to these internal disorders.

By the law of England, the religion of the majority is established, and that establishment is guarded by a religious test ; but the dissenters from the church are tolerated.

The greater part of the inhabitants of Holland being Calvinists, their religion would have been established : it would likewise have been the religion of all the magistrates. There would have therefore been no expulsion of Arminian ministers from the public churches ; because there would have been none of the clergy of that sect in possession of them.

If by a test act, none but the members of the established Church, the Calvinists, had been able to act as magistrates ;
the

the Arminian magistrates could not have expelled the clergy of the Calvinistic belief from their churches ; because there would have been no such magistrates.

If besides, a toleration had been granted ; neither sect could have deprived or molested the other in the free exercise of its religion ; for the one would have been established, and the other tolerated.

Neither would the members of the smaller sect, in those districts where they were the most numerous, have been so ready to deny obedience to the magistrates of the opposite sect ; or to displace them and set up others, contrary to law. For such a denial must have amounted to a refusal to obey the total magistracy of the state : it is a total disavowal of all civil subjection, or rebellion. But, as there were other magistrates of their own sect, the disobedience appeared to them to be only partial. Beside, the appearance of force in readiness to reduce them to their duty, would be much greater in one case than in the other : in the one, it would be the total civil power of the country, in union with the majority of the people ; in the other, that civil power would be disunited ; by which, the offenders might perhaps hope for indemnity, if not success, in their boldest attempts.

This universal scene of tumult, which seems to have pervaded every province, every city, every town, produced correspondent effects in the government and constitution : and has been the cause of the repeated revolutions, which have at certain intervals taken place in the republic, from the year 1609 to the present time. “ The dispute between “ Arminius and Gomarus,” says the historian here exclusively followed, “ laid the first conception of a humour, that “ has ever since laid lurking in the constitution of the state, “ breaking out upon all revolutions, and laying the foundation of that disunion and discord, which will probably “ terminate one day in the total subversion of the republic.”

(p. 36.) We are now to trace its initial and continued operation upon the constitution.

For some time previous to the conclusion of the twelve years truce, by which the independence of the United Provinces was admitted by Spain, a political party began to entertain apprehensions of the ambition of Maurice, the second Stadtholder, and to form a declared opposition to him: the great Barneveldt was impressed with the same fears; and some states in the union were much influenced by his authority. (p. 22.)

Opposition excited mutual resentment between these two leaders of the republic: the partisans of Maurice supported the cause of the Calvinists, the most numerous sect; which also, at some periods, seems to have been favoured by the states: Barneveldt, and some of his cities, inclined to the Arminian party. Encouraged by the expectation of support from these powerful patrons, the magistrates of each sect, in their several districts, proceeded to suspend those ministers, whose religious opinions differed from their own. These measures drew on an inundation of writings, in which, the constitution of every branch of the executive government was called into question. As they directly "led to an inquiry into " the rights and powers of the magistrates; this into the " prerogative of the Stadtholder of the several Provinces; " and that into the sovereign right of the provincial States, " and States general." (p. 39.) Topics not likely, during such a universal ferment, to be candidly discussed, or to tend to allay it.

Prince Maurice, at the head of an army devoted to him, knew how to derive the greatest advantage from the strength of a religious party, constituting a great majority of the people; and who regarded him likewise as their chief, though not yet avowedly so. The ignominious expulsion of Gisfilius, a seditious preacher of the Calvinists, from Rotterdam, furnished

nished occasion to their adversaries, to stigmatize the body of the Arminians, as secret friends to Spain, and enemies to the liberties of their country. By what means this event could produce such an effect, seems difficult to conceive : but “ the passions of the people being thus inflamed against them, Maurice ventured on some bold and dangerous alterations in the civil government ; changing the magistrates of the cities at pleasure, so as to maintain a majority in the provincial States ; and consequently in the States general.” (p. 43.) Thus he was enabled to advance one great step, to carry his authority beyond the bounds marked out by the constitution.

When two religious parties are in a state of hostility, the supreme magistrate will generally be able to increase his strength, by the accession of that of the greater ; and convert a considerable part of their religious fervour into the means of carrying on his designs ; if he be able to impose upon them, with the slightest appearance of service to the common cause. The truth of this principle appears in the transaction just recited. Such a sect being attacked, or any of its supports attempted to be taken away, a very intimate junction of this nature will probably be formed ; and its occasion continuing, it may acquire such strength, as ultimately to produce bad effects. But if a legal support, in which it acquiesces, be granted to such a powerful church ; that too intimate degree of connection with the supreme magistrate, will by degrees die away ; and his civil power be supported by its members upon civil considerations only. Thus in England, after the failure of some attempts to repeal the test act, had given an appearance of permanent security to the establishment ; the apprehensions of the national church for its security died away ; and those principles, which perhaps at one time attached its members too much to monarchical power, died away with them. What system of new measures will naturally tend to revive them, is very evident.

Men intent upon obtaining illegal power, and on trampling on the laws and liberties of their country, will, in similar situations, pursue similar plans. It was about thirty-six years after this time, that Cromwell carried both parts of this measure of prince Maurice into execution, but upon a larger scale: the first, when he imprisoned forty members of the house of Commons, and by Sir Hardress Waller demanded the exclusion of ninety more; to obtain a majority in that assembly, upon the vote to receive no messages from the King; and for an act, to erect a court to bring him to trial. And the second, when he invested a few miserable fanatics, by his own commission, with the name and authority of a Parliament. It is not stepping much out of the way to have drawn this parallel: for, as far as the civil war in England was a religious war, it was kindled by the theological disputes of Arminius and Gomarus: for the principles of the former being brought over into England, excited as fierce commotions between the Calvinists and Arminians, as had taken place in Holland.

From the conduct of the cities of Leuwarde and Utrecht, it may be imagined, that the Arminians themselves indirectly aided the Prince in his plan of usurpation; by their illegal violences in expelling their lawful magistrates, and insulting his person when he came to restore them.

The Prince having, by these changes in the magistracy, obtained a majority in the States general, the Calvinists solicited for a national synod to sit under their authority; which was carried, but not unanimously; the measure being opposed by the provincial states of Holland and Utrecht. (p. 42.) Two alliances, offensive and defensive, were thus contracted: the first, between the Calvinists and the majority of the States; the second, between the Arminians, Utrecht, and the powerful province of Holland. The division, formed at this juncture, has already subsisted much more than a century and .

and a half, has occasioned many revolutions, and alternately brought the republic very near to a state of anarchy, and a state of despotism.

A little pause ensued, before the parties, thus regularly established and opposed to each other, came into action; during which, Barneveldt endeavoured to appease the national dissensions by different expedients: one of which was, that “certain ecclesiastical laws should be confirmed by the states.” (p. 42.) These were to contain a confession of faith, comprehending only fundamental points.* The assumption of a power by the civil magistrates to draw up articles of religion, without their deliberations being assisted by an assembly of the national clergy, would perhaps never be tolerated at any enlightened period of time, or in any government: much less in the circumstances which then took place. Barneveldt was unsuccessful: many of the states refused their sanction to any system of religious opinions, which had not previously been debated in a convocation of divines.

Much of the bitterness with which the two factions were animated against each other, certainly arose from the inflammatory publications, so abundantly at that time circulated. Barneveldt, in order to allay the inveterate spirit of hostility derived from this source, was guilty of another error; he proposed restraining the liberty of the press: this was wisely opposed by the magistrates of Amsterdam; “notwithstanding” “that their own conduct was the subject of the severest satires” “and pasquinades, which had yet appeared.” (p. 45.) His intention was certainly good; although the mean by which
he

* Vid. Epist. G. Vossii H. Grotio. Voss. op. t. 4. ep. 2. The editor of the works of Vossius prefixes a summary to each of his letters: in that prefixed to this, he speaks of these articles as being drawn up for the lower class of people: “Circa articulos fidei POPULLO proponendos.” Yet he is of the party of Barneveldt.

he attempted to effect it, was bad. He might probably think, that there were certain times, at which it might become necessary to impose a temporary restraint upon the freedom of the press, by an act of the legislature ; as in England, under certain circumstances, it is expedient to suspend the Habeas Corpus. This is given as the apology of the man, not of the measure. But as nothing is more hostile to the peace of mankind, than religious rancour : and as a contemptuous representation, or misrepresentation, of the tenets of any religious society, are the infallible means of carrying its virulence to the most noxious excess ; society has no greater enemies, than those who thus exercise their perverted abilities : the severe and liberal indignation of the wise and good of their own party, seems the just, the proper, and the adequate punishment of such offenders. It may be added, that most of the poisonous animals are to be found in that contemptible class, called reptiles by the naturalists ; though there are some of a superior denomination.† But to return to the inflammatory writings then circulated in Holland : in what we have handed down to us upon this subject, in the history here followed ; there is no mention of either of the two religious parties making catechisms for young children, vehicles for libels upon the religious opinions of their opponents ; or turning them into ecclesiastical pasquinades : and by making, and systematically making, the contempt and derision of the opinion of their adversaries one of the first principles of education ; to add to the future inveteracy of religious rancour, all the strength that

† “ The Dissenters deliver their sentiments of the established church, with less temperance than the Papists did in the most persecuting periods.” Mr. Pitt’s speech on the Repeal.

“ Read their catechisms : here they call the Church of Rome the Whore of Babylon ; the Church of Scotland a kept Mistress ; and the Church of England a medium between both.”

that discipline and art can give it. This is apparently a new improvement in polemical tactics, for which the future harmony of society, in the different states of the Christian world, will be indebted to some English Dissenters.

Another plan proposed by the Pensionary for the restoration of public tranquillity, was that of an edict of toleration.† It obtained the assent of the States general, but not that of the Cities: and no mention was made in it, of any punishment against those who should transgress it. By one of its clauses, “the clergy on each side, who were suspended, were to be restored to their functions.” (p. 44.) A measure, which was certain to meet the most determined opposition of the zealots of both parties, that is, in such times of confusion, the greater part of each. Many of the suspended clergy, both Calvinists and Arminians, in whose favour this edict was apparently issued, would resist its execution with their whole influence: for a considerable number of each sect, who had been expelled by their adversaries from their churches, were doubtless invited by their own party, to fill other benefices; in which they had made vacancies for them, by pursuing the same violent steps: to all such, a return to their former residence, must have been an object of settled aversion; if a difference of profit did not reconcile them to it. But such is the equality of the stipends of the ministers in Holland, that they would have less frequently been so induced to accept of the terms of the edict, than at first might be imagined: and the States, as soon as it was issued, were virtually obliged to dispense with the observance of it.

Such were the measures applied by the mild patriotism of Barneveldt, to heal the disorders of the state, which were continually increasing. By the vices of its original constitution, they had already become too violent for palliatives: the total authority of government being placed in the hand
of

† G. Voss, Epist. 3.

of the contending parties themselves, there no where existed a force to repress the outrages of either ; which could terminate only by some dangerous crisis. Prince Maurice determined to profit by the occasion, and probably to usurp the sovereignty : but, as he foresaw that this would be much easier, if he could gain over Barneveldt to his party, he determined to attempt it : his attempts failed. Some measures of the Pensionary, and some strong proceedings of the Arminian party, he had the address to persuade the populace to be renewed proofs of their being partisans of Spain, and enemies of public liberty : this adding to the strength of a party already almost triumphant, he pulled off the mask ; and, as he had before secretly favoured the Calvinists only, he now openly set himself at their head.

Encouraged by this declaration, the Calvinists in Holland threw off all respect for Barneveldt and the provincial States, breaking out into open violence ; and they were obliged to apply to the Prince for troops for their protection. He eluded their application, and forbade the soldiery even to assist the magistrates of the towns of Holland in suppressing sedition : upon which, they determined to augment the guards and garrisons by their own authority. (p. 47.)

This step Maurice pretended to resent, as an encroachment upon his prerogative, as governor of the province ; and seizes, in a hostile manner, on the Briel, Delft, and Scheidam ; changes the magistrates of Nimeguen, and the province of Guelderland enters cordially into his measures. And although certain cities had refused him admittance ; (p. 47.) and Barneveldt, assisted by the ambassador of France, had been able to appease the disputes in the provincial States of Holland ; (p. 49.) yet, after some feeble attempts “ to prevail with the Prince, to suffer the garrisons to be under the direction of the magistrates, and to relinquish his project for the retrenching the privileges of the cities.”

(p. 53.)

(p. 53.) “ Unable to oppose his further designs, his opponents determined to connive at his measures.” (p. 54.) “ They perceived that the least tumult would furnish a pretext for similar trespasses on the constitution; and the means of rendering himself absolute in the Cities, and consequently in the provincial States.” (p. 5.)

Maurice now, by the assistance of the military, seized the city of Utrecht, disarmed the garrison, degraded the magistrates, and caused new ones to be appointed in their places; changed the form of government, (p. 54.) and expelled the Arminian clergy from their churches. The “ cities of Holland were afterwards served in a similar manner.” (p. 55.)

It still remained necessary to the ultimate completion of the designs of the Prince, to gain or to destroy Barneveldt: and it seems to have been greatly his wish to succeed in the first of these ways. For at this very time, he was loading his relations with favours; and conferred upon his two sons, two of the most considerable posts of the republic: but he was unsuccessful: and the national synod, so long the object of apprehension to Barneveldt and the Arminians, met at Dordrecht. (p. 56.)

The Arminians refusing to appear, to defend themselves before this assembly, as the persons who must be their judges there, were actually parties in the dispute; they were of course condemned in their absence. The passions of the populace were wrought up to the highest violence against them, by the eloquent and flagitious Aersens: and Maurice, by “ order of the States, “ seized upon Barneveldt, Grotius, “ Hoogenberts, and the other leaders of the Arminians, “ whom he imprisoned in the castle of Louvestien: whence “ that party has ever since borrowed the appellation.” (p. 57.)

Judges were appointed to try Barneveldt for sedition, and harbouring designs destructive to liberty: he was condemned

and executed. The fruits Maurice reaped from this execution, were very different from those with which he had flattered himself. The man, whom, when alive, the populace had execrated as the enemy of his country, as soon as he was dead, was revered as the martyr of the constitution. Two of his descendants, a son, (p. 58.) and a grandson, at different times attempted to revenge the legal murder of Barneveldt, by the assassination of Maurice. The latter, in his criminal enterprise, was assisted by a number of the Arminians; (p. 63) which involved the whole sect in a new persecution. By a particular ordinance, pecuniary rewards were offered to those, who should ACCUSE any of the Louvestien party with designs against the government or the prince. (p. 64.) "And
 " several persons were beheaded, only because they were
 " Arminians, and consequently supposed favourers of the
 " violent measures, upon which, some turbulent and bigotted
 " individuals of the same faction had entered." (p. 65.) A renewal of the Spanish war, which broke out with great violence after the expiration of the long truce, and threatened even the existence of the republic as a sovereign state; prevented Maurice from taking advantage of these circumstances, who survived his escape from the last of these attempts two years.

He was succeeded in his authority by his brother Henry: and the Arminians, who were now generally possessed with an implacable hatred to the house of Orange, reanimated by his death, formed a design of revenging their late sufferings. They were restrained by the more moderate men among them; and some lenient declarations of Henry seconded their conciliating interpositions. But at this juncture, he does not appear to have acted with sincerity: he flattered the abilities of Grotius, the second man in the party during the life of Barneveldt; but he compelled him to linger out the remainder of his life in exile: he permitted a new persecution of these

these sectaries ; and it was even proposed wholly to suppress Arminianism, by compelling all its professors to subscribe to certain articles of faith, drawn up by the Calvinists : a measure, which must have been followed by more fatal effects, than those which already had afflicted the republic during this dispute : but the apprehensions of a foreign invasion occasioned it to be laid aside. (p. 85.)

During the war which ensued, a few indulgencies were extended to the Louvestien party : some of them appear to have been admitted into the magistracy of Amsterdam : and it was on account of the opposition made to them, that the state found it necessary to issue the singular ordinance mentioned above.

Henry conducted the war with ability, and after its conclusion, governed the republic with moderation : which so far engaged the gratitude of the people, that they made the Stadtholdership hereditary in his family. This event immediately followed the abortive attempt of Cardinal Richelieu to seize the city of Orange, the patrimony of the Prince, situated in an interior part of France ; which laid the foundation of the opposition to that nation, which the house of Orange has on all occasions shown : and, as its secondary consequence, threw the Arminian party into the arms of that powerful kingdom. (p. 108.)

It was thus, that a bad system of religious laws, which had for a long series of years filled the provinces with discord, violences, and atrocious crimes ; after having been nearly destructive to public liberty, ultimately gave birth to a foreign faction in their domestic councils : a new and fertile source of national degradation and calamity. This junction, however, did not take place early enough to produce any apparent effect, during the remainder of the splendid and fortunate administration of this Prince ; which lasted on the whole

twenty.

twenty-two years : at the end of which term, he was succeeded by his son William, the second Stadtholder of that name.

His accession did not take place, without a delay to it being interposed, on the part of some of the Provinces. (p. 160.) The Arminians had already recovered strength enough to begin on their side, to make encroachments on the constitution. The peace of Munster, which was then negotiating, followed soon after : and it appeared, when the debate concerning the reduction of the land-forces of the republic came on in the assembly of the states, that the Louvestien party had re-acquired a total ascendancy in the great province of Holland. The difference of the military peace establishments, proposed to be kept up by both parties, was so minute, as to make it evident, that the matter taken up was only the ostensible ground of division ; while the real subject of dispute was kept out of sight. Animosities ran to a great height : and the States general, determined to bear down the opposition of the refractory Provinces, sent express orders to the officers of the army, not to obey any requisition they might receive from the States of Holland. (p. 170.)

That Province remaining fixed in its opposition, the Prince, seconded by the council of state, obtained a resolution from the States general, that a deputation should be sent to the towns of Holland, “ to oblige the magistrates to alter their “ sentiments.” (p. 170.) He put himself at the head of the deputies, and they were refused admission at Amsterdam, and most of the other towns ; and in some with insult and contempt. On his return to the States, he arraigned the conduct of the cities with severity : the speech he made on this occasion was printed, to inflame the minds of the clergy and populace of his party ; and was answered by a manifesto of the States of Holland.

To these causes of mutual animosity, was superadded an incident, which caused a civil war immediately to break out.

A fleet, under Admiral De Wit, returned at this time from an unsuccessful expedition to the Brazils : and the conduct of the commander and his officers was strongly impeached, De Wit was arrested, and the States general ordered six of the captains of the fleet, who had received their commissions from them, into confinement in the prison of the admiralty of Amsterdam. In this they had all ancient precedents in their favour : but the province of Holland remonstrated against the order, as a violation of its local sovereignty ; it was carried into execution notwithstanding that opposition : but the prison doors were forced by the magistrates of Amsterdam, and the prisoners set at liberty. (p. 172.)

William immediately confined the six deputies of the province, and marched a body of troops towards that capital ; which, but for some unforeseen accidents, must have fallen into his hands without striking a blow. The city was however terrified into a humiliating treaty ; by which the deputies of Holland, though released from their confinement, were deprived of their employment : as were two popular magistrates of Amsterdam, who deserved and acquired the admiration of their country, by insisting to be made sacrifices, by being deprived of their offices, and declared incapable of holding any dignity in the republic, rather than involve it in a civil war.

Whatever further enterprises this Prince might have in contemplation, his sudden death, at the age of twenty-four, put a stop to them. His widow, the Princess Mary of England, was delivered of a son a few days after.

His death deprived his party of a head, and filled them with despondency ; and all the towns of Holland with exultation and festivity. The States of that province, after having abrogated many of the powers before possessed by the Stadtholder, eluded all applications to nominate the infant Prince to that dignity ; with a lieutenant to perform the functions
of

of it during his minority. By this conduct, they evinced an early determination to lay aside the office intirely. And although, during their unsuccessful war with the English commonwealth, there were perpetual commotions and insurrections of the populace, who demanded the creation of a Stadtholder, a measure strongly pressed by Van Trump the elder, and some of the Provinces; every interposition to this end was rejected by the governing party, who “ asserted, that the restoration “ of that dignity would be the ruin of liberty.” (p. 191.)

The celebrated De Wit was now raised to the office of Pensionary of Holland: he put an end to the English war by a treaty with Cromwell; one great article of which was, that a solemn act should be passed by the States general, to exclude the young Prince of Orange from the Stadtholdership; and the other offices possessed by his ancestors. As during the subsequent part of his life, the Pensionary constantly opposed the re-establishment of that office; the great opposition which he affected to give to this condition of the treaty, seems to have been calculated only to conciliate the Orange party to him: and to make him appear compelled to accept of an article, so agreeable to his own views, and the interest of his party. It was by the edict passed in consequence of this treaty, that the first revolution of the Dutch constitution, which before had effectively taken place, was completed by the formality of a law.

The term of the commotions hitherto described, extended to forty-five years. Their principal cause has been shown to have been the committing of the executive power indifferently to the individuals of two sects, disagreeing about abstract opinions only; yet, having no external badges or marks of distinction in their rites and ceremonies; a source of dissension generally more fatal and more permanent. In consequence of this erroneous system, and the internal disorders occasioned by it, we have seen the fœderal Chief of the United Provinces,

Provinces, twice in that period, upon the very point of subduing the liberties of his country : and the Louvestien party at length able to annihilate that office ; and leave the States, of which the Republic is composed, without a common head : that center of union of councils and execution, which to their divided and equal powers, is so vitally necessary.

We are now arrived at that juncture, when the Louvestien party, the least numerous and powerful, whether they be considered as a religious sect, or a political faction ; assumed the reins of government, in opposition to the majority of the nation, and the national church. The Pensionary De Wit guided their councils : and the spirit of his administration was such as his situation rendered necessary ; and what appears the consequence of the executive power being invested in the weaker party. His system of measures is to be considered with respect to the church, the navy, the army, and the foreign connections of the state.

It does not appear, that the Calvinists were treated with that violence, with which both sects mutually harrassed each other, before the synod of Dordrecht : to have added strength and acrimony to their opposition by impolitic severities, might soon have been fatal to the new constitution. Yet the clergy of Holland, the enemies of De Wit's administration, declaimed against it violently from the pulpit, and " the States were under a necessity of prohibiting them to meddle with public affairs ; however they persisted, and some of them were suspended." (p. 260.)

The marine of the Provinces was supported upon a respectable footing ; and the first of their wars with Charles II. did not terminate either to their disgrace or disadvantage. Yet the divisions of the state affected its operations : Opdam, who conducted the first action, was in opposition to the Pensionary : and " several captains had been promoted, by the interest of the governing party, to be spies upon his conduct, without
" any

“ any regard to merit.” (p. 257.) While the engagement was yet undecided, they withdrew themselves from the line ; which decided the fate of the day, at that time perhaps doubtful. Toward the conclusion of the war, great animosities broke out between De Ruyter and Van Tromp the younger, the two best admirals of the republic, who were of different parties : and “ the seamen, entering into the quarrel of “ their commanders, formed two opposite factions, came to “ blows, and threatened the dissolution of the government.” (p. 269.)

These alarming symptoms had been just dispelled by superseding Van Tromp ; when the Republic, at that time dejected by recent defeat and disappointment, was menaced by a new revolution ; which, by the assistance of the public enemy, was to have restored the former authority of the house of Orange. An inferior agent in this design was apprehended and executed : but the conspirators were so numerous, and their party so powerful, that it was found necessary to suppress the discoveries made by him. The weakness of the party in administration had so far annihilated the power of the law, that they were obliged to affect to believe a body of men calumniated ; against whom they had convincing proofs of entering into a conspiracy with the enemy in time of war, because they dared not bring them to public justice. (p. 270)

The total ruin of the army was another consequence of the debility of the party, who then conducted public affairs. They were obliged to diminish the influence of the opposition, and increase their own, by means the most destructive to public security : hence, although De Wit found himself compelled to reduce the military establishment, for reasons which will be afterward explained, yet, in the prosecution of this plan, “ while the old experienced officers were laid aside, “ on account of their attachment to the Prince of Orange ; “ under whose ancestors they had acquired all their know-
“ ledge.”

“ ledge.” (p. 279.) For some years, all military employ-
 “ ments had been held by the children of Burgomasters;
 “ because they were generally in the interest of the Pen-
 “ sioner:” (p. 279.) “ the sons and kindred of his own
 “ friends, raw, inexperienced youths, who had never beheld
 “ the face of an enemy.” (p. 287.) During the first war
 with Charles II. the Bishop of Munster invaded the Provinces
 at the head of 8000 men: (p. 263.) an adversary and a
 force intirely unequal to a contest with the armies of the
 Republic, in the time of her former elevation and power:
 her troops were now found to be “ perfectly usefess;” (p. 279)
 “ Terror diffused itself through all the Provinces,” upon
 this insignificant invasion: and it was only by the assistance
 of 6000 men, with which France was by treaty obliged to
 furnish the States, that they were able to repel this attack.

In the system of policy which De Wit embraced, with
 regard to foreign states, the criminality and weakness of his
 measures at least equalled that of ruining the army. The
 natural strength of his party, increased by the influence he
 had so acquired, was not found to be sufficient to retain the
 reins of government in his hands: to effect this, the inter-
 position of a foreign power in the domestic concerns of the
 state, became necessary: which, as far as it is admitted, is
 always virtually a partial surrender of national independence;
 and a tacit submission to a foreign sovereign. Though it was
 already become evident, that Lewis XIV. was “ more dan-
 “ gerous as an ally, than as an open enemy; the Pensioner
 “ engaged himself deeply with that Prince; and his coun-
 “ tenance afforded him the best support against the house of
 “ Orange.” (p. 274.) He felt all the consequences which
 his own situation and that of his party brought upon the nation,
 whose “ security could not be provided for without a military
 “ force; and that such a force could not be raised, paid, and
 “ disciplined, while the republic was divided; and the more

“popular party excluded from all public employments.” (p. 283.) In such a situation, what was the line of conduct he systematically pursued? “His complaisance for the court of France, occasioned his extinguishing every spark of military spirit in the republic, by disbanding the greater part of the army;” (p. 287.) and he ruined the remainder, which was inadequate to any purpose of defence, by the conduct stated before. This reduction of the army was probably made at the requisition of Lewis XIV. as the price of his protection: for when Charles II. had rendered himself dependant upon that prince for an annual pension, a similar proposal was urged to him, which he rejected with vivacity.

When De Wit had thus disarmed Holland, Lewis XIV. thought the opportunity of converting his influence over the Provinces into a direct sovereignty, too flattering to be passed by. This was his motive for attacking the republic in the year 1672. At the juncture that his intention became evident, the union of the two parties in Holland, could apparently have opposed but an insufficient barrier to the power of France, as the country was without an army, and without fortifications: (p. 287.) yet “neither side appeared to have any thoughts of preserving the republic by a coalition, or even a suspension of their animosity; perhaps from a conviction that it was impracticable.” (p. 284.) The Louvestien faction foresaw that a war would transfer a great part, or the whole of their power to their opponents; and they made the most abject submissions to the king of France to retain it. “They promised immediately to redress all his Majesty’s complaints, to remove from their councils every person who had incurred his displeasure, and to square their conduct intirely by his royal will.” (p. 284.) Thus the weaker of the two sects which prevailed in this country, becoming possessed of the executive power, reduced it to the lowest degradation, that of offering to confer, by a solemn treaty, an effective

sovereignty upon an invader; “ by stipulating to square their
 “ conduct intirely by his royal will:” and as they had deter-
 mined not to try the experiment of surrendering a share of
 the administration to the majority, it is not easy to conceive
 any third measure, which they could have adopted with any
 probability of success. Great as these offers were, they did
 not satisfy the rapacious ambition of Lewis: perhaps he
 thought, that they added but little, beside legality and form,
 to the influence he before possessed in their government. But
 the power of the Louvestien faction, and the humiliation of
 the States, were now approaching to their end.

William, the young Prince of Orange, had been already
 set at the head of their ruined army. (p. 287.) He despised
 a tributary sovereignty of the Provinces remaining uncon-
 quered, which had been offered him by the enemy, as his share
 of the plunder of his country. But while he infused life and
 vigour into its councils, “ he inflamed the populace against
 “ the Pensioner and his brother:” (p. 293.) Thus excited,
 they ran to arms in the greater cities, and inviting the Prince
 of Orange, compel the magistrates to invest him with all the
 dignities which had been possessed by his ancestors. “ They
 “ purged the public-offices of all disagreeable persons; called
 “ upon the Prince to fill the vacancies; introduced into the
 “ magistracy, all the adherents of his family; and insisted
 “ that their own deputies should have seats in the adminis-
 “ tration; contrary to the fundamental laws of the consti-
 “ tution.” (p. 294.) The two De Wits were massacred by
 them; and the Prince of Orange was now placed at the
 head of the republic. At Amsterdam, the pretensions of the
 populace, which amounted to little less than the subversion of
 the constitution, were enforced by the most dreadful menaces:
 “ and the great design seems to have been, to share the
 “ government between the Stadtholder and the populace:
 “ whatever demands were made by the people, the Stadt-
 holder

“holder immediately granted :* the power of the nobility
 “was every where the object of jealousy : all authority was
 “vested in his Highness ; the States were scarce ever named ;
 “the legislative and executive powers were wholly at his
 “mercy ; and the constitution seemed intirely unhinged.”
 (p. 296.) That such a violent transfer of power did not produce effects, as bad as those from which it had delivered the State ; and that this tumultuary spirit died away, without any further consequences, than elevating William to the legitimate constitutional powers of supreme magistrate ; is to be ascribed to his moderation. His subsequent good fortune and conduct, and that of the States, compelled Lewis XIV. to evacuate his sudden conquests ; and procured an honourable peace. The Louvestien party was for a time suppressed ; and the Stadtholdership made hereditary to William’s descendants.

Upon the return of peace, that party again gathered strength enough, being assisted by the intrigues of France, to undermine the popularity of the Prince, and diminish his interest and credit with the States ; although he was supported by the Pensionary of Holland. And in this struggle, William, the constant victim or principal actor in revolutions, who by one had lost his hereditary dignities in his cradle, and to which he had been restored by a second ; was very near being deprived of them again by a third : a danger, from which his fortune, and the fortune of this island preserved him ; to effect a fourth of still greater magnitude : by recovering our liberties, and placing them on a basis, which Providence seems to have designed to be as permanent as our wisdom, and our virtues.

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* This assertion undoubtedly stands in need of some qualification : William did not second the requisitions of the people, that their deputies should have a seat in the administration.

The cause and the progress of this convulsion, which at first threatened to replunge the Provinces into calamities, as great as those from which they had so lately emerged, were as follows. The French having renewed the troubles of Europe, by invading the Spanish Netherlands, the Prince moved, in the assembly of the States, that an addition of 16,000 new raised troops should be made to the army : by the articles of the union of Utrecht, such a motion can be carried by a unanimous vote only : though he had a majority upon the question, there were some dissenting voices : and when he found himself not able to bring over his opponents, he “ determined that the plurality of voices should be a sufficient “ authority.” (p. 317.) The Louvestien party in general, apprehended more dreadful consequences from the power of the Stadtholder, than from the arms of the French Monarch : many of the magistrates of Amsterdam, and of the deputies, had been bribed by his resident ; which was discovered by his intercepted letters : and the party against the Prince was so strong and determined, as to protect these offenders from legal inquiry. This conduct of the opposition was, for the present, of service to William ; by covering the illegality of the power he assumed, with some colour of that urgent necessity which dispenses with law. He pursued his determination ; and was greatly advanced in the business of the levies, when an accommodation between France and Spain took place. To mortify the Prince, these troops were immediately discharged : and his enemies found themselves strong enough, to proceed to divest him of his dignities, and confer them upon another Prince of his house. Prince Casimer of Nassau was already in possession of the government of Friesland, and Groningen : and the inhabitants of Amsterdam, “ invited “ him and his court to their city, with an intent to confer “ on him the Stadtholdership, in the room of his cousin the “ Prince of Orange : the project was baffled by the harmony “ subsisting

“ subsisting between the two Princes.” (p. 321.) But the magistrates determined to compensate their disappointment, “ by some other method of revenge,” no less signal and mortifying. And by means of the Louvestien party, Lewis XIV. was still able to “ maintain the Provinces in a kind of “ subjection ; to limit the authority of the Stadtholder, and “ prevent all vigorous resolutions.”

But these threatening appearances passed away sooner than might be expected : we are left to conjecture how they were dispelled : but probably, the restless ambition of the French cabinet ; the attention of James II. to his army and navy ; and the declarations of his priests, that the force of the two monarchies would again be joined against the republic, revived the popularity and influence of the Prince ; and induced the States, to lend the most cordial assistance to his successful expedition into England ; which seated him upon the throne of these kingdoms : and it may be added, which insured to him the peaceable possession of his dignities in the republic, which before seemed dubious. “ For that party, “ which had strenuously opposed the Prince of Orange, “ resigned itself intirely to the direction of the King of “ Great Britain : such influence had he acquired since his “ accession to that throne. (p. 343.)

But the Louvestien party, or the Arminians, still continued to endeavour to maintain and extend their natural foundation of power, by a diligent propagation of their religious opinions. And it was at the particular instance of King William, that the States of Holland and Friesland published an edict in September, 1694 ; ordering all the clergy, in their sermons, to preach no other doctrine than that approved by the synod of Dordrecht : “ to introduce no uncommon “ axioms, no novel opinions or doctrines in their writings ; “ and not to examine by the light of reason, what was “ intended by the author of our being to exceed reason.” (p. 346.)

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The difference with which William treated the dissenters of England and Holland, is easily explained; an enmity to France was his ruling principle: the dissenters in Holland were blindly attached to that nation; he meant therefore, at least, to restrain their increase by this edict: those of England were actuated against it by resentments equal to his own; "they were willing and able to serve him" in his favourite views: and it was with reluctance he saw himself deprived of their services, by the operation of the test act. Whether the dissenters in either country, were to be admitted to the same privileges as the rest of the subjects, or to be refused a toleration; depended with him upon the answer to this question; are they enemies or friends to the French interest? It is easy to see, this is not the point upon which the question ought to turn: but the persecutions of his youth are an apology for the errors of his judgment upon this subject: his sentiments however add no weight to the argument against the Test act.

It is at this period, that the work, which has been hitherto followed, breaks off: but it appears, from the last extract, that the religious disputes were revived; and the Arminians were again gaining ground in the Provinces. And the events which followed the death of William, show that the Louvestien party immediately obtained possession of the government, and effected a third change in its form; the office of Stadtholder being suppressed a second time. In the year 1747, it was again restored in a tumultuous manner by the people; whose attachment to the house of Orange has always subsisted unaltered. Under the administration of the present Stadtholder, we have seen the Louvestien party once more revive, and acquire such a degree of strength, as in the year 1787, to deprive him of many of the powers annexed to his office, expel him from the Hague, and almost effect another revolution; which they manifestly intended: when the interposition

position of Prussia and Great Britain, restored the Prince to all the prerogatives of which he had been divested.

This sketch of the history of the civil commotions of Holland, comprehends a term of 178 years : in this time, four revolutions have been effected : the Stadtholdership having been twice suppressed by edict, and twice restored by popular insurrections. Four other revolutions were upon the very point of taking place : Maurice, and his grandson William, had each of them very nearly erected an absolute sovereignty in the Provinces : a third was very probably avoided by the moderation of Prince Casimer ; who declined the invitation of the powerful city of Amsterdam, to set up as Stadtholder against his cousin William III. and the weakness of France, in the year 1787, is the probable cause why the Provinces are not, at this instant, over-run with the forces of England, France, and Prussia ; and hostile armies of their own inhabitants.

The longest interval, during which Holland enjoyed a form of government which had the appearance of being fixed, was from the death of King William to the year 1747 ; or about 45 years : if we deduct from the former part of it, the time, during which jealousy, disquiet, and disorder, must have prevailed, after the demolition of the old government ; and from the latter, that period of intestine confusion, which must have preceded its tumultuary restoration ; the middle of the term, in which some little domestic quiet may be supposed to have been enjoyed, will be found to be very short.

From the length of time, during which these confusions subsisted, there is another observation which suggests itself to us : Holland certainly had not advanced in refinement, in liberality of ideas, and in science, less than the other States of Europe : yet nearly two centuries have elapsed, since religious antipathies, which afterward became closely connected with political disputes, excited the two parties against each other :

other: an error in their laws put equal arms into the hands of both; and their animosities are not yet at an end. A space of time considerably less has intervened, since the dissenters and the established church of England were engaged in the most destructive civil hostilities: and it may properly be esteemed, even at this juncture, too rash to risk the safety of the state upon a probability, that time has wrought greater effect on one side of the water, than on the other.

The constitution of Holland, under the government of an hereditary Stadtholder, is effectively a species of mixed monarchy: and if it be compared to that of Great Britain, they will be found to bear more resemblance to each other, than either of them does to an unlimited monarchy, or pure republic. Therefore, when our inquiries are directed to the effect of adopting or abrogating any law, upon the constitution; as far as the propriety or impropriety of such a measure is to be judged of from the experience of other states, the examples drawn from the history of Holland, are the most conclusive. And the uniform tenor of the annals of that country, since it has acquired a settled independence, forms a connected mass of evidence of the superiority of the English system of ecclesiastical laws, relating to the establishment, over that adopted in the United Provinces: and particularly illustrates this position; that when the inhabitants of a state are divided in their religious opinions, the executive power ought to be exclusively intrusted to members of the most numerous and powerful church.

III. The last proposition to be treated of is, that the repeal of the test act would increase the power of the popular part of the constitution; and therefore, that its continuance is necessary to preserve it in its present state.

To what is to be brought in proof of this, I shall premise one observation upon the present state of the British constitution. It is now very generally admitted, that more liberty is actually enjoyed under a mixed monarchy, than under a republic: the consequence of which is, that when such a monarchy approaches to a republican form of government, nearer than by a certain distance, be that what it may, liberty itself begins to be diminished, independent of the additional loss of secrecy in its councils, and celerity in their execution. Therefore, when it is in the situation described, to decrease the democratic power by degrees or otherwise, or to diminish that of the other two branches, is inimical to the state.

I presume it may be asserted, that the best friends of this country concur in thinking, that our constitution is arrived to that point; or so near to it, that the aberration is too minute to be ascertained, and it cannot be determinately fixed on which side it falls.† I shall therefore show, in the first place, that the tenets of the English dissenters, with respect to ecclesiastical polity, bias them perpetually to increase the weight of the popular part of the civil constitution, and decrease that of the sovereign.

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† An advocate for the repeal of the Test act may dispute this; but when he enters upon the effects of the repeal upon the constitution, he must lay it down, that it either will, or will not, alter the proportional strength and balance of its constituent parts; if he maintain the negative; which is the belief of a great number of those who strongly urge that measure, though perhaps it is only the profession of some others, his error will be shown in the text. But if he admit the affirmative; he admits the test act to be the support of the civil constitution, as it now exists; and this very point being granted; it seems to me requisite to add nothing more, to prove that a repeal ought not to take place: and it is presumed, that this kingdom contains but a very small party of a contrary opinion.

While the government of the established church is extremely analogous to the constitution of the state, a circumstance, perhaps of some considerable advantage to the stability of the latter, the body of the dissenters have chosen to adopt a republican polity: and the mode in which this influences their political opinions, is to be examined.

It is natural to study with our best attention, the arguments in favour of those opinions, which we are most frequently obliged to defend; and against those which we are most frequently called upon to oppose, or set ourselves to combat. And if a diligent application of this kind produce no change in our tenets, an event little to be expected; we naturally become more attached to them, than to those, in defence of which we have not prepared ourselves with so much solicitude, or contended for with such vigour and perseverance. It is thus most probably, that the English dissenters have become so firmly wedded to their republican form of church government, and their opposition to episcopacy. With what a peculiar degree of strength they are devoted to these principles, we may judge from this singular circumstance; that at the beginning of the present century, it was sufficient to draw upon them the censures of the Calvinistic divines of the church of Charenton, who are the head of the French Protestants; that of the divinity professor of the Dutch University of Leyden; and of the University of Geneva itself; which, by a letter to that of Oxford, professed the most unqualified disapprobation to their opposition to the discipline of the church of England; which it does not appear, that the intervention of fourscore years has at all diminished. The consequences of their particular attachment to this republican polity, deserves and requires a particular consideration, with respect to the subject before us.

It is well known, with what assiduity and diligence the peculiar doctrines of the dissenters are instilled into the minds

of their children, at the earliest time of life : and the attention paid to inform them of all the arguments in behalf of those points, in which they hold opinions diametrically opposite to the established church, will naturally, as hath been observed, form that part of their religious lectures, which will be with the greatest care impressed upon their minds. Now the defence of the republican system of church government, in opposition to that of the establishment, (which they persist in, after the censures of the great foreign Calvinistic churches) is chiefly grounded upon arguments, equally applicable to the defence of a republican constitution ; therefore, when they grow up into men, if they be sincerely attached to their religious principles, every thing connected with them becomes venerable ; and arguments esteemed conclusive, when applied to the constitution of the church, will have part of the weight of religious reverence added to them, when applied to the constitution of the state : for it is absurd to suppose, that a conscientious man, who to-day holds a principle, in respect and approbation, as connected with his religion, and necessary to the defence of it ; will, when to-morrow it is applied to another subject, condemn the legitimate deductions from it, as the maxims of turbulence and licentiousness. Hence we may naturally expect to find many of the dissenters, who will determinately follow these principles their full length : and that a great majority of their whole number will be so far biassed by them, as perpetually to endeavour to add new weight and power to the popular part of the government, or to diminish the efficacy of the two other branches ; and yet be able to deceive themselves into a belief, that they continue friends to liberty and a limited monarchy : though, in a constitution so well balanced as our own, any nearer approach to a popular form of government, must be inimical to both. It is upon these accounts, that we find so many avowed republicans among the dissenters ; and that a very
great

great majority of them are dissatisfied ; from a conception, that the people possess too little power, and the sovereign too much.

Let us now, in the second place, proceed to trace the consequences of the political principles of the dissenters, upon a supposition, that they may be in future suffered to acquire a greater power in the state, than they now enjoy. Its effect will be proportioned to its increase ; and new strength will accrue to the democratical part of the constitution, at the expence of the other two estates.

If the test act be abolished, their power will be increased directly ; by the influence they will acquire, from being admitted into all judicial offices, and many others, and the dependance they will be able to create, by providing establishments for many of the lower members of their several communions, at the expence of the state. And it is to be added, that all the power they will thus acquire, will be a deduction from that at present possessed by the members of the established church : for it is not to be supposed, that new offices will be created for them. In this case, the proportion of executive power, of offices and influence, which will fall into their hands, will greatly exceed that of their numbers and property : for although their numbers are still much inferior to that of the national church ; yet, whatever shades of difference of opinion may prevail among them, they are much more united in their political plans and exertions ; pursue them with much greater diligence and address ; and in all political contests, or other competitions, with the members of the establishment, they possess the advantage of a body of regular troops, acting against a numerous but undisciplined militia. These are qualities, I am not disposed to blame in them, though the want of them elsewhere is an object of regret. But the calumny with which those of their
opponents

opponents are loaded, who defend the cause of the constitution with the same vigour with which it is attacked, deserves a severe censure.

If credit be given to the accounts of the strength of this party, their numbers and their proportion to the whole people, have been increasing ever since the revolution. For, to remove all apprehensions of their strength, the great advocate for the repeal represented them as being one-tenth* part of the people. In his argument on this subject, he certainly did not overstate their proportion: but, even upon this ground, it appears, that their relative strength has been something more than doubled, since the year 1689;§ when an actual enumeration of the different religious sects in the kingdom was made, by order of King William.

But their own calculations exhibit a much more formidable view of their progress: they affirm, that they are already one-fifth of the kingdom; and if so, as their influence in the corporations, and in the counties at large, together with their activity and skill in political management, has already given them possession of an effective power in the state, considerably greater than in proportion to their natural weight, or than one-fifth of the whole: repeal the test laws; admit them into the magistracy; add offices, and the power of providing for their lower dependants; and it must be increased in an
alarming

* Speech of Mr. Fox on the Repeal.

§ Report of the number of Churchmen, Dissenters, and Papists, in England, 1689.

Conformists	-	-	-	2,477,254
Non-Conformists and Papists				122,532
				<hr/>
Total (Males)	-	-	-	2,599,786
				<hr/>

Non-Conformists and Catholics, one in twenty-one. Chalmers's Estimate, &c. 1782, p. 117.

alarming degree;† and they will get two-fifths of the power of the state into their hands; which will be at least as effective as the remaining three-fifths, in the hands of the members of the church of England. Hence it appears, that Dr. Priestley's assertion, that it will not survive the repeal of the test act ten years, may be found to be eventually true. But if these consequences do not hold, yet, their own calculations being just, the proportion of their numbers to that of the established church is four times, and their relative strength five times, what it was at the revolution. And, after a repeal of the act, our ecclesiastical establishment, in such circumstances, will be able to stand its ground but a very few years.

But, whatever may be the accuracy of these statements, or the justice of this elucidation of Dr. Priestley's prophecy; it appears very clearly, that a repeal of the test acts would have greatly increased the power of the dissenters in the state. That their religious tenets, and the political principles they have constantly held, which are in strict analogy to them, would have made them throw the greater part of this newly acquired weight into the popular scale, which would have destroyed the present balance of power in the government: a government, under which the state has subsisted an hundred years, without convulsions arising from the attempt of any one power of which it is composed, to usurp upon the privileges and prerogatives of the other: or without any abuse of them, enough to justify a wish for an alteration.

It is alleged, that the repeal of the act will not affect the constitution, either in church or state; some consequences of it to the civil constitution have been already considered. And in these, the church will be at least equally involved: but it
must

† Speech of Mr. Burke on the Repeal.

must likewise be attended with dangers of another kind to our religious establishment; the nature of which is now to be explained.

If the acts had been abolished, the dissenters would, as judges of the supreme courts, and as magistrates of the counties and corporations, have acquired jurisdiction; in all cases relating to the doctrines and worship of the church, as established by statute, and in those relating to its income: together with the patronage incident to these offices: the consequences of which are to be examined.

It may be laid down, as one absolute and necessary condition of the admissibility of any man to a civil office, that "he should not be in principle, either religious or political, "inimical to the execution of any one branch of it." The effect of laws by no means depends upon their dead letter: it is sometimes almost totally derived from the spirit with which they are administered: that is, from the principles of those who carry them into execution; or at least it is much tinged by them. And this is more particularly true of religious laws. Long before the severe statutes against Catholics were abrogated, the judges favoured every evasion of them: yet this certainly did not arise from any favour they bore to the doctrines of that sect. And as it cannot be imagined, that those laws would have been more effective, if there had been some Catholic judges upon the bench; in like manner, the sanctions of every statute, by which the doctrine and discipline of the church of England is now protected, will be rendered nugatory, when dissenting judges are admitted into Westminster Hall: unless we suppose, that they will act with more vigour to suppress religious principles they approve, than their predecessors did against those they condemned. Now, as by the term 'establishment of the church,' its establishment by law is meant on both sides; and the repeal of the
test

test act strongly tends to render those laws nugatory, it tends, in the same degree, to subvert the establishment.

How the repeal would naturally affect the revenue of the established church, requires very little explanation. Its principal income is derived from the tithes, a tax originally granted by the state for the maintenance of the clergy. And juries being formed out of the body of the people, whose interest is affected by that tax, the influence and authority of a judge, not hostile to its principle, will be frequently no more than is absolutely necessary, to guard against those errors of judgment, into which an able advocate may lead them. But if he should think the stipends of the clergy, the wages of propagating superstition and error; or an invasion of the property of individuals, under the colour of laws, obtained in an age of darkness and ignorance, one or both of which must be the belief of every dissenting judge, he will not frequently think himself obliged to act against his religious principles; by removing misconceptions, which he firmly believes innocent in themselves, and useful to religion, and the state: but imagine he has done his full duty, if he passively leave the jury to that bias, with which an habitual sentiment of general interest may influence their decisions; though in a manner, perhaps at the time unperceived by themselves: a bias, against which, our excellent institution of trials by jury, in every other case, has so successfully guarded; but which, in this, perhaps admits no cure; and can only be counteracted, by the attention of the judge to anticipate its effects.

These exceptions likewise extend to the admission of dissenters into the magistracy of corporations or counties, as far as by these offices, they would gain a jurisdiction in matters relating either to the discipline or revenue of the church: moreover, as an incident to these offices, they would likewise acquire

acquire a considerable ecclesiastical patronage; the consequence of which deserves some attention.

The magistrates in the counties at large, have some ecclesiastical benefices in their gift, but there are more belonging to particular corporations. And although the state has thought it improper to injure the freehold of the dissenting patron, by taking from him the right of presentation; yet no new sole or joint right of nomination to an office, ought to be created by law, for the purpose of being invested in any man, who is either upon political or religious principles, inimical to the legal exercise of that office. For, in the latter case, which is the only one treated of here; the civil and religious duty of the dissenting magistrate, are set in opposition to each other: his civil duty obliges him to give a preference to the candidate for a benefice, who he thinks will best fulfil all the purposes of the office conferred on him; one of which is, to diminish, by all proper means, the extent and influence of the magistrate's religious tenets: but his religious duty will draw him in an absolutely contrary direction.

Hence it appears, that it is a very difficult task to prove, that a dissenter can, with due regard to his moral and religious obligations, take the oath required by law of every magistrate. For that oath, construed without evasion, obliges him certainly to execute every function of his office, according to the true intent and meaning of the legislator. If his nomination to the preferments of the church, according to that intent and meaning, be given to those who are most likely to draw back to the establishment, the members of the dissenting congregations, and, among the rest, his own; he has voluntarily accepted a situation, in which he must betray and injure the interests of what he esteems the true religion; that is, he voluntarily determines upon occasion, so to injure it. If he follow the contrary conduct, he executes an incidental function of his office, contrary to the true intent and meaning of the legislator:

legislator: and if, which is the third and only remaining case, he take the office, with a general determination not to act upon such occasions; this predetermined Non-feasance is contrary to the general tenor of oaths of office: which does not permit the magistrate, “to let for any cause,” to perform the whole functions of that office. In this case, the oath, by which a dissenting magistrate must bind himself to society and the laws, is contradictory to his antecedent religious duties. He would find himself likewise under the same difficulties, in carrying into execution many of the laws relating to the established church; and perhaps we shall not advance too far, if we conclude, that any man’s willingness to involve himself in such a situation, amounts to a sufficient moral disqualification to office.

IV. I now come to examine the merits of some of the political arguments, which are urged in favour of the repeal of the test act: selecting for this review, those only, in which a greater degree of confidence seems to have been reposed by the friends of that measure.

The first is, that of the two great functions of government, legislation and the execution of laws; the former is the superior: and as no injury to the state results, or has resulted, from the dissenters possessing legislative power, in common with the members of the established church; no evil can arise from suffering them to enjoy a share in the executive power; a department, in its nature inferior, and of less confidence than the other.

This argument tacitly supposes a principle, as universally true, which no one can admit as such, when it is laid simply before him: that is, that those who are able to take the supreme direction in any business, possess every qualification to carry it into execution, in all its inferior parts. But it is matter of daily experience, that these two distinct depart-

ments may call for different qualifications: and that there may be qualities absolutely necessary in the subordinate agent, which those in the supreme direction do not want to possess; and if they did, that they could not avail themselves of the use of them.

To bring this general observation to the particular point before us: to the objection stated above, it is answered, that the dissenters do not possess the qualifications, which intitle them to have a share in the executive part of government: or in other words, that they hold principles which disqualify them therefrom. But that these principles do not render it inexpedient, to confer upon them a share of the legislative power.

As to the first of these propositions, it may be laid down as a universal maxim, that no measure, no system of measures, or system of laws, will be duly carried into execution, by those who are enemies to them upon principle, either in the whole, or in part: in which latter description, it has been already shown, that every sect of the dissenters are involved.

But when a law is to be made or amended, every thing which can be alleged, for or against the principle of that law or amendment, and on its several parts, ought to be heard with equal advantage. That is, when a question is properly before an assembly, competent to the decision of it, the advocate and opponents of it ought to be heard at the same time, that their opposite arguments may be fairly compared; and that they should be enabled to support their principles in the same manner, that is, by vote, as well as by argument. And in the discussions of this nature in our legislative assemblies, those whose education biasses them too much to the popular part of the constitution, or to reduce the dignity and power of the church; may form, in either house, no more than a proper counterpoise to those, who are disposed to the
opposite

opposite unconstitutional errors. Exclude either of them, and the constitution will be in danger of inclining too much to the opposite extreme. Hence, a part of the two estates of the legislature may very properly be dissenters from the establishment; although, as it has been shown before, persons of that description ought not to be intrusted with executive power.

It is not only in debates on the principle of a law, that it is expedient not to suppress opposition of opinion; its principle may be excellent, yet, in all probability, many of its parts may be greatly improved, by the vigilance of those who entertain very different sentiments of it. The perfection of the outline will frequently conceal the faults of the subordinate parts, from the observation of the sanguine favourers of the general tendency of a law: and they will mostly escape all detection, but that of the watchful jealousy of an adverse party: for it is equally the fate of improvements of legislation, and of new discoveries in every other science; to receive much of their ultimate perfection, from the objections of those who are eager in opposition to them.

There is another argument, which is very strongly alleged in favour of the protestant dissenters; derived from the support they have, on different occasions, given to the constitution: which is urged as a decisive proof, that they hold no principles dangerous to its stability, but, on the contrary, are intitled to the total confidence of the state; and an equal share in all honours and offices, with the members of the established church.

This is supposed to be abundantly sufficient to outweigh the presumption, that an admission of their claims, would increase too much the strength of the popular part of the government: it is necessary, therefore, that we should be able to find in their conduct, on the occasion referred to,

sufficient

sufficient ground to disprove the truth of this apprehension.

Now let the merit of their tardy concurrence to that opposition to James II. which produced the revolution ; and their less ambiguous deserts in joining chearfully with the majority of the nation, in placing the present royal family upon the throne, and opposing two rebellions, be estimated at any amount they may chuse ; it does not in the least invalidate the objection laid down against their admissibility to office : such conduct being as perfectly coincident with the disqualifying principle alleged against them, as with those more sober maxims of civil liberty, which are the guards, upon which our free government must depend, for the effective part of its support. If the efforts of the state had been unsuccessful in any one of these struggles, the principal weight of the blow would have fallen upon the popular part of the constitution. Can their zealous defence of it at these times, be wrought up into a proof, that they do not wish its aggrandizement, at the expence of the other two ? In such a national calamity, they themselves would probably have been the first victims. And is it a political merit, that, standing first in danger, they determined to arm with their fellow citizens in self-defence ? But, in their zeal for the common cause, did they not hazard themselves, on one side, to the bitter and increasing resentments of the enemy ? and did they not expose themselves, on the other, to the rigour of the penal laws of that establishment, whose battles they fought ? the answer lies in a very small compass : ‘ with an act of indemnity in ‘ their pockets.’ Under the joint influence of political principle and self-defence, the most decided republican must have acted as they did : their conduct therefore cannot be brought in proof, that their sentiments do not incline them too much to the popular part of the constitution : and neither proof, nor shadow of proof, arises from it, that it is expedient to
take

take off their disqualifications. Reverse the case, and it may very well be left to their own decision. Suppose, that in any point of time, there had existed in the kingdom, a considerable party, desirous of increasing the royal power, at the expence of that of the other two estates ; such as the Catholics may be esteemed formerly to have been ; and like them, excluded from all offices by a test act : and suppose an attempt to be made by a republican army to subvert the constitution ; that this is opposed, its true and real supporters, men, who though friends to a limited kingly government, would not lay the liberties of the nation at the foot of the throne ; the part that will be taken by the monarchical faction is certain, they will join the latter : and if, by this junction, the constitution is preserved, can it be said, that their principles are thus proved to be constitutional, or that they are less objects of political jealousy than before ?

It is further said, that the national church stands, in some degree, engaged to concur with the dissenters in the repeal of the act : its object having been, at a time of particular danger, to disqualify the Catholics to hold civil offices. And, as it was not probable, that an act, directed exclusively against that sect, would at that time have passed ; the dissenters suffered themselves to be included in it, upon an expectation, that, at a subsequent period, an act would be made for their relief.

In this account we are left to conjecture, whether their expectation was founded on a promise, made by some members of the established church, or not. It is most probable, if there had been any explicit engagement, it would have been explicitly cited ; for there is little doubt, but some account of it would have been preserved : if not, it amounts to no more, than that the dissenters expected the repeal above a century ago ; and therefore, they demand it now.

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Let us suppose an engagement of this kind was entered into by a private junto of churchmen and dissenters : if we pass by the presumption of a few unauthorised individuals, clandestinely giving and receiving an engagement, by which, the determinations of the legislature were undertaken for : it bound those who were pledged, to exert themselves to the utmost, to carry it into effect : but it could not bind the legislative bodies, who were not parties to the agreement : and, if it had, the obligation would have been dissolved with the parliament ; it could not bind parliaments not then in being ; who, if they found the law unrepealed, and judged it to be good, were in duty obliged to continue it ; and, even if it had been repealed before the date of their existence, to have reenacted it.

The test act, like all other laws, must stand and fall by its own merit ; and not upon that of the conduct and designs of its original framers ; their motives, or the mode in which it was brought forward. Our law books contain some excellent statutes, for which the first authors are intitled to very little praise. The animosity of the long parliament against the Dutch, was their principal motive to pass the navigation act : a motive at least impolitic ; but the act itself is one of the best that exists, in the European codes of mercantile laws. The habeas corpus act stands as high, among those laws which secure the liberties of the subject : James II. whose information was probably better than that of any private historian, informs us, that it was projected by Lord Shaftesbury, when, being engaged in the prosecution of his seditious measures, he was apprehensive of being imprisoned, by the discretionary power the King then exercised. The impolitic animosity, which dictated one law, and the treasonable motives of the other, will not be thought a sufficient argument for their repeal : and the like may be said of the test act, if it were improperly obtained. The

The dissenters further contend, that their exclusion from office by the religious test laws, is a deprivation of their natural rights, as men ; to which they ought to be restored, by their being repealed.

This argument seems not only erroneous, but to contain an error of a very particular kind. In its terms, it appears to be an appeal to the principles of freedom and natural equality ; but, when it comes to be considered, it will be found to rest upon a principle, repugnant to the first great canon of civil liberty ; and which has always been revered by them, as a principle of the highest importance.

Rights may be divided into two classes, natural and conventional. The latter are acquired by compact only ; and have no existence previous to the compact, but solely in consequence of it. The right to the powers of magistracy, is founded on a compact between the magistrate and the people, or the majority of the people ; and the right cannot exist prior to the contract. And no man is eligible, or can hold such an office, only by such a contract *de facto*, or the supposition of the existence of such a contract : but no such supposition can be admitted, where the law (the voice of the people) declares it not to exist. This is the foundation of all freedom in civil government ; the basis on which all authority, from that of the lowest officer in the state, to that of the supreme magistrate, is mediately or immediately founded. And when the people have declared, by the voices of persons properly authorised by them, that they will not enter into such compacts, with persons of a certain description, (an act, which, it will not be disputed, but they are fully competent to) they can be in possession of no right to office, without a contradiction to these principles : and, as there exists no natural right to a civil office, the dissenters cannot say that by the test act they are deprived of such rights.

The

The last of the arguments urged by the dissenters which I shall consider, is founded upon the same principles with the former: that to be disqualified from holding an office is penal; and the penalty inflicted by law, upon some of the greatest offenders against society. And, that all penalties upon account of religion, are but so many modifications of absolute persecution. The pretensions of this argument to weight and validity are very minute indeed. The bare non-possession of any desirable thing cannot be considered as penal: to make it so there must have existed some antecedent right to the thing; now the rights of persons, are either natural or founded on compact: a natural right to a civil office cannot exist, the right must be founded on compact; and no claim to a right by compact can be set up, while the testimony of the society to the non existence of such contract, subsists in the letter of the law: or, which is the same thing, when it is denied by the voice of the people, speaking in their political capacity: and when such a question arises "it must be decided by the voice of the society itself: there is not upon earth any other tribunal to resort to."* The dissenters therefore are divested of no right, and no actual possession, by not being eligible to office, it is therefore no penal infliction or penalty.

I conclude this essay, by an observation on the two last arguments in favour of the repeal, here considered: upon a supposition that there exists a right in the state, to establish the

* Blackstone establishes the right of the people as exercised in determining the succession to the throne, from the abdication of James to the establishment of the house of Hanover upon the following principle, "whenever a question arises between the society at large, and any magistrate invested with powers originally delegated by that society, it must be decided by the voice of the society itself: there is not upon earth any other tribunal to resort to." Black. com. 8vo. 1773, v. I, p. 211.

the religion of the majority of its members by law (and the body of the dissenters have not thought it proper to ground their application against the test acts, upon a denial of this assumption) these abstract doctrines of the rights of individuals, will assist us in proving the direct contrary of the principle, they were brought to support and furnish us with a new argument, that it is the duty of all legislators to guard an established religion by a test law.

For it must be admitted to be the duty of the legislature, to enact every regulation, which is expedient for the due and entire execution of the laws; which does not violate the rights of individuals; that is, their natural or conventional rights. But it is expedient, in order to ensure that due execution, to exclude every class of men from a share of the executive power, whose principles, religious or civil, are inimical to the whole or any part of the laws which are entrusted to their execution; while any other persons are to be found, against whom such a material objection does not lie. Now this does not violate any natural or conventional right, as hath been shown above: It is therefore the duty of the legislature to establish that principle by a positive law: and the dissenters, being by their religious principles inimical to that great branch of the laws, which establishes the national church, they ought to be excluded from the magistracy by law.



